

ETHICS ADVISORY PANEL
Opinion #93-5, Request #335
Issued March 15, 1993

An attorney seeks Panel advice with regard to the following questions. The first question is whether an attorney is permitted to charge a client costs associated with filing a claim under the Criminal Injury Compensation Fund against the state such as court filing fees and service of process costs. The second question is whether an attorney can refuse to take further action for a client when the client fails to uphold the agreement to pay for the costs described above.

The Panel declines to answer the first question regarding the propriety of charging a client for costs associated with filing a claim because it would require resolutions of questions concerning substantive law outside the area of legal ethics and discipline. To avoid a problem it is advised that the attorney should have the proposed fee agreement in writing which should state the method by which the fee is to be determined.

With regard to the second inquiry, with the absence of a retainer agreement the attorney does not have to file the complaint in court on behalf of the client as long as the attorney is not deemed to have already entered into a written agreement with the client stating that the claim will be filed.